

§ 253.12

including any additional collateral, shall be free of additional liens, unless the Program, at the request of the applicant, expressly waives this requirement in writing.

(l) *General FFP credit standards apply.* Unless explicitly stated otherwise in these rules, all FFP direct lending is subject to the above general credit standards and requirements found in §§ 253.12 through 253.30. The Program may adjust collateral, guarantee and other requirements to reflect individual credit risks.

(m) *Adverse legal proceedings.* The Program, at its own discretion, may decline or hold in abeyance any loan approval or disbursement(s) to any applicant found to have outstanding lawsuits, citations, hearings, liabilities, appeals, sanctions or other pending actions whose negative outcome could significantly impact, in the opinion of the Program, the financial circumstances of the applicant.

§ 253.12 Credit application.

(a) *Applicant.* (1) An applicant must be a U.S. citizen and be eligible to document a vessel in the coastwise trade; and

(2) Only the legal title holder of project property, or its parent company (or the lessee of an appropriate long-term lease) may apply for a loan; and

(3) An applicant and the majority of its principals must generally have the ability, experience, resources, character, reputation, and other qualifications the Program deems necessary for successfully operating, utilizing, or carrying out the project and protecting the Program's interest; and

(4) Applicants should apply to the appropriate NMFS Regional Financial Services Branch to be considered.

(b) *Application fee.* An application fee of 0.5 percent of the dollar amount of an application is due when the application is formally accepted. Upon submission, 50 percent of the application fee, known as the "filing fee," is non-refundable; the remainder, known as the "commitment fee," may be refunded if the Program declines an application or an applicant withdraws its application before the Program issues an AIP letter, as described in § 253.13(e).

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The Program will not issue an AIP letter if any of the application fee remains unpaid. No portion of the application fee shall be refunded once the Program issues an AIP letter.

(c) *False statement.* A false statement on an application is grounds for denial or termination of funds, grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001 and an event of a security default.

§ 253.13 Initial investigation and approval.

(a) The Program shall undertake a due diligence investigation of every application it receives to determine if, in the Program's sole judgment, the application is both:

(1) Eligible for a loan because it meets applicable loan requirements; and

(2) Qualified for a loan because the project is deemed an acceptable credit risk.

(b) The Program will approve eligible and qualified applicants by evaluating the information obtained during the application and investigation process.

(c) Among other investigations, applicants may be subject to a background check, fisheries violations check and credit review. Background checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's honesty or financial integrity.

(d) The Program, at its own discretion, may decline or delay approval of any loans or disbursements to any applicant found to have outstanding citations, notices of violations, or other pending legal actions or unresolved claims.

(e) The Program may place any terms and conditions on such approvals that the Program, in its sole discretion, deems necessary and appropriate.

(f) *Credit decision.* (1) The Program shall issue to approved applicants an AIP letter, which shall describe the terms and conditions of the loan, including (but not limited to) loan amounts, maturities, additional collateral, repayment sources or guarantees.